IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 4TH JUNE 2007 / 14TH JYAISHTA 1929

WP(C).No. 23846 of 2006(L)

(OS.141/2000 IN I.A.NO.3175/04 of PRINCIPAL SUB COURT, PALAKKAD DATED 19/07/06)
.....

PETITIONER:

V. VELAYUDHAN, S/O. CHELLAYYAN,
AGED 56 YEARS, REITRED ASST.ENGINEER,
ITI KANJIKODE, RESIDING AT KARINGARAPPULLY
AMSOM DESOM, KADAINKODE, PALAKKAD.

BY ADV. SRI.JACOB SEBASTIAN

RESPONDENT:

G. GOVINDARAN, S/O. GANGA NAIDU,
PRECOT MILL COLONY, KANJIKODE (WEST),
PALAKKAD.

BY ADV. SRI.A.R.GANGADAS

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 04/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.NO.23846/2006 L

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **COPY OF THE WRITTEN STATEMENT DTD. 31/08/2000 IN O.S.141/2000 OF THE COURT OF THE SUBORDINATE JUDGE, PALAKKAD.**

EXT.P2: **COPY OF I.A.3175/2004 IN O.S.141/2000 OF THE COURT OF THE SUBORDINATE JUDGE, PALAKKAD.**

EXT.P3: **COPY OF THE ORDER DTD. 19/07/2006 IN I.A.3175/2004 IN O.S.141/2000 OF THE COURT OF THE SUBORDINATE JUDGE, PALAKKAD IN PRODUCED HEREWITH AND MARKED AS EXT.P3.**

/TRUE COPY/

KSS

M.N.KRISHNAN, J.

WP(C)No. 23846 OF 2006 L

Dated this the 4th June, 2007.

JUDGMENT

This writ petition is filed seeking to quash the order in I.A.3175/2004 in O.S.141/2000 pending before the Subordinate Judge's Court, Palakkad. The suit is one for realisation of money based on a dishonoured cheque. It is the case of the defendant that he had put his signature in the disputed cheque and he has not filled the cheque and it is a material alteration done by the plaintiff whereas the plaintiff would contend that the cheque has been written by the defendant and he had put his signature. Earlier the defendant moved an application for sending the document for examination by an expert. It was allowed. Therefore, the original of the cheque was called for from the bank. The bank only produced a photo copy. For the purpose of a proper comparison it is imperative to have the original of the cheque. Therefore I.A.3175/04 was moved by the defendant for getting the original of the cheque. Unfortunately the said request was turned down. It is against that decision the present petition was filed. The order passed by the court permitting examination by the expert remains, it is not set aside. In order to comply with the said order the defendant wants the original of the

cheque to be produced before the court. I find that the court below committed illegality in not allowing the prayer as made by the defendant. Therefore, the order under challenge is set aside and I.A.3175/04 is allowed and the court is directed to summon for the original of the cheque for the purpose of comparison.

Writ petition is disposed of accordingly.

M.N.KRISHNAN
Judge

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